



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 30, 1991

Mr. Robert Giddings  
University of Texas System  
Office of General Counsel  
201 West Seventh Street  
Austin, Texas 78701

OR91-532

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12586.

The University of Texas Health Science Center (the university) received an open records request for a copy of "the complete file resulting from [the requestor's] application to medical school at UTHSCSA." You state that the only document in the requestor's application file not previously made available to him is a memorandum to the file dated July 12, 1989. You contend that the memorandum contains three paragraphs that come under the protection of section 3(a)(11).

Section 3(a)(11) of the act excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the deliberative process. Open Records Decision No. 538 (1990). The purpose of this section is "to protect from public disclosure advice and opinions on policy matters and to encourage frank and open discussion . . . in connection with [the] decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.).

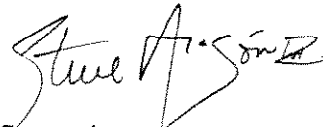
In Open Records Decision No. 429 (1985) at 5, this office indicated that information protected by section 3(a)(11) must be prepared by a person or entity with an official reason or duty to provide the information in question. *See also* Open Records Decision Nos. 283, 273 (1981). This helps assure that the information plays

a role in the deliberative process; if it does not, it is not entitled to protection under section 3(a)(11). Open Records Decision No. 464 (1987). In this regard, section 3(a)(11) may protect solicited opinions of character references the university has contacted during the applicant's background check. See Open Records Decision No. 466 (1987).

Section 3(a)(11) does not protect facts and written observation of facts and events that are severable from advice, opinion, and recommendation. Open Records Decision No. 450 (1986). If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that information may be withheld. Open Records Decision No. 313 (1982). Although most of the information you seek to withhold comes under the protection of section 3(a)(11), some of the information consists of severable factual information. We have marked those portions of the memorandum that you may withhold pursuant to section 3(a)(11); the remaining information must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-532.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Steve Aragon", with a stylized flourish at the end.

Steve Aragon  
Assistant Attorney General  
Opinion Committee

SA/RWP/lcd

Ref.: ID# 12586

ID# 12736

Enclosures: Marked documents

cc: Michael Trulson  
1612 Auburn Dr.  
Richardson, Texas 75081